
**Financial Institutions &
Insurance Committee**

HB 1528

Brief Description: Changing the beginning date for the escrow accounts required of self-funded multiple employer welfare arrangements.

Sponsors: Representatives Kirby, Priest, Simpson, Newhouse, Cody, Serben and Schual-Berke.

Brief Summary of Bill

- Delays the effective date of the premium tax requirements on self-funded multiple employer welfare arrangements until April 1, 2006.
- Delays the effective date of the WSHIP assessment requirements on self-funded multiple employer welfare arrangements until April 1, 2006.

Hearing Date: 2/3/05

Staff: Jon Hedegard (786-7127).

Background:

State regulation of health insurers.

The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of health care service contractors (HCSCs), health maintenance organizations (HMOs), and disability insurers offering health coverage in Washington. These entities must pay an annual premium tax equal to 2 percent of all premiums collected or received during the preceding calendar year. These entities must also pay an assessment to help fund the Washington State Health Insurance Pool (WSHIP). WSHIP was created by the Washington State Legislature to provide access to health insurance coverage to all residents of the state who are denied or are unable to obtain health insurance coverage on either an individual or group basis.

MEWAs and federal regulation.

A "Multiple Employer Welfare Arrangement" (MEWA) is a group purchasing arrangement defined by the federal Employee Retirement Income Security Act of 1974. ERISA defines a MEWA as an employee welfare benefit plan or other arrangement established or maintained to offer or provide welfare plan benefits to employees of two or more employers or their beneficiaries. An employee welfare benefit plan is defined to include medical, surgical, or hospital care or benefits as well as sickness, accident, disability, and death benefits. ERISA generally preempts state laws relating to employee benefit plans. An exception allows the

application of state insurance laws to ERISA-covered welfare plans that meet the MEWA definition.

MEWAs and state regulation.

Under current state insurance law, a MEWA established, operated, providing benefits, or maintained in this state prior to December 31, 2003, has until April 1, 2005, to file a substantially complete application for a certificate of authority. The MEWA is subject to various state requirements in chapter 48.125 RCW.

Premium taxes and WSHIP assessments.

Premium tax payments and WSHIP assessments are required from MEWAs if the state statutory requirements are not preempted by federal law (ERISA). The Commissioner and interested MEWAs must request an initial advisory opinion from the United States Department of Labor (DOL) or obtain a declaratory ruling from a federal court regarding the legality of imposing state premium taxes and WSHIP assessments on MEWAs. If not preempted by federal law, the premium tax and WSHIP assessment requirements become effective on March 1, 2005, or 30 days following the issuance of a certificate of authority, whichever is later. The premium tax provisions may not be retroactively applied to any period before a MEWA receives a certificate of authority.

If the premium tax and WSHIP assessment requirements are effective and no ruling has been made by the DOL, the taxes and assessments shall be deposited in interest bearing escrow accounts maintained by the MEWA.

If DOL or a federal court determine that the premium taxes are not preempted by ERISA, the funds in the escrow account shall be transferred to the Washington State Treasurer. If DOL or a federal court determine that the WSHIP assessments are not preempted by ERISA, the funds in the escrow account shall be transferred to the WSHIP Board.

Summary of Bill:

The effective date of the premium tax requirements is changed from March 1, 2005, or 30 days after issuance of a certificate of authority, whichever is later, to April 1, 2006.

The effective date of the WSHIP assessment requirements is changed from March 1, 2005, or 30 days after issuance of a certificate of authority, whichever is later, to April 1, 2006.

Appropriation: None.

Fiscal Note: Requested on February 1, 2005.

Effective Date: The bill has an emergency clause and takes effect immediately.